

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO: 04-10816-MLW

ABC MORTGAGE CORPORATION
f/k/a JOHN G. MACLEOD d/b/a ABC
MORTGAGE COMPANY,

Plaintiff,

v.

SCOTTSDALE INSURANCE, CO.

Defendant.

ASSENTED TO MOTION TO EXTEND SCHEDULING ORDER DEADLINES

The plaintiff moves to extend the scheduling order deadlines in the above-captioned matter. As grounds for this motion, the plaintiff states the following, which is supported by the Affidavit of Kerry D. Florio, attached as Exhibit A:

1. The parties attended a Scheduling Conference June 6, 2005 after temporarily staying this matter for a period of time in order to explore possible case resolution.
2. Following the Scheduling Conference, the Court issued a Scheduling Order on June 7, 2005.
3. The Scheduling Order established a Discovery Deadline of February 3, 2006.
4. The parties continued to engage in discussions regarding case resolution.
5. On November 8, 2005, counsel for ABC Mortgage served written discovery on defendant, Scottsdale Insurance Company.
6. On November 9, 2005, counsel for ABC Mortgage noticed the 30(b)(6) deposition of Scottsdale Insurance Company for December 14, 2005.

7. Before proceeding with this discovery, the parties agreed to again discuss case resolution.
8. The parties agreed to postpone discovery pending these discussions.
9. The parties agreed to either file a stay of this matter or file an assented to motion to extend the scheduling order should the parties decide to continue to litigate this matter.
10. Shortly after reaching this agreement, Scottsdale retained successor counsel, George Rockas.
11. The plaintiff now seeks additional time in order to complete discovery in this matter. Scottsdale maintains that no discovery is needed to resolve the issues in question in this case.
12. In addition to obtaining written discovery from Scottsdale, ABC Mortgage anticipates deposing Scottsdale Insurance Company representatives (including Dean Clause and Kathy Davin listed in Scottsdale's Initial Disclosure) on the various topics outline in our deposition notice, including but not limited to the facts of the Complaint, Scottsdale's underwriting file, investigation of the underlying claim, Scottsdale's claim file, Scottsdale's coverage opinion, Scottsdale's denial of the claim, Scottsdale's underwriting guidelines and regulations, policies, procedures, rules and regulations relative to coverage for commercial general liability policies, polices, rules and/or guidelines regarding coverage for TCPA claim, Scottsdale's correspondence with Melick, Porter and Shea relative to this matter, and Scottsdale's answer and defenses in this matter. Scottsdale reserves the right to file a motion to stay this discovery pending resolution of the coverage issues or in the alternative to file a motion for protective order. It is Scottsdale's position that this discovery is premature and prejudicial unless and until the Court rules that coverage exists for the plaintiff's under the policy at issue. Scottsdale intends to file a motion for summary judgment by the end of February, 2006.
13. The plaintiff proposes the following Scheduling Order Deadlines:

Discovery complete by April 14, 2006;

Status Conference on April 28, 2006;

Motions for Summary Judgment filed by April 28, 2006;

Oppositions to Motions for Summary Judgment filed by May 29, 2006 or within thirty (30) days from the date the summary judgement motion is filed;

Final Pretrial Conference on June 19, 2006; and,

Jury Trial to be scheduled after a ruling on the anticipated Motions for Summary Judgment.

14. Defendant, Scottsdale Insurance Company, assents to this motion.

WHEREFORE, the plaintiff moves that the Court allow this Assented to Motion to Extend the Scheduling Order deadlines.

ABC MORTGAGE CORPORATION
f/k/a JOHN G. MACLEOD d/b/a ABC
MORTGAGE COMPANY

SCOTTSDALE INSURANCE COMPANY

By its attorneys,

By its attorneys,

/s/ Kerry D. Florio

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CERTIFICATE OF SERVICE

I, Kerry D. Florio, hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on 2/6/06.

/s/ Kerry D. Florio
Kerry D. Florio

Date: February 6, 2006